

Kevin J. Curtis, WSBA No. 12085
WINSTON & CASHATT, LAWYERS, a
Professional Service Corporation
601 W. Riverside, Ste. 1900
Spokane, WA 99201
Telephone: (509) 838-6131

Charles L. Babcock IV (*admitted pro hac vice*)

cbabcock@jw.com

Texas Bar No. 01479500

William J. Stowe (*admitted pro hac vice*)

wstowe@jw.com

Texas Bar No. 24075124

JACKSON WALKER L.L.P.

1401 McKinney Street

Suite 1900

Houston, Texas 77010

(713) 752-4360 (telephone)

(713) 408-4000 (telephone)

Attorneys for Defendants International Data Group, Inc., CXO Media, Inc. and Steve Ragan

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RIVER CITY MEDIA, LLC, a Wyoming limited liability company, MARK FERRIS, an individual, MATT FERRIS, an individual, and AMBER PAUL, an individual.

No. 2:17-cv-105-SAB

DEFENDANT CXO MEDIA, INC.'S
MOTION TO MODIFY IN PART ORDER
ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S
WITHDRAWAL OF CERTAIN
DISCOVERY REQUESTS AT HEARING

CXO MEDIA, INC.'S, MOTION TO MODIFY IN PART
ORDER ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S WITHDRAWAL OF
CERTAIN DISCOVERY REQUESTS AT HEARING
PAGE 1

Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 388-6131

1 KROMTECH ALLIANCE
 2 CORPORATION, a German corporation,
 3 CHRIS VICKERY, an individual, CXO
 4 MEDIA, INC., a Massachusetts
 5 corporation, INTERNATIONAL DATA
 6 GROUP, INC., a Massachusetts
 7 corporation, and STEVE RAGAN, an
 8 individual, and DOES 1-50,

9
 10 Defendants.

11
 12
Without Oral Argument
Hearing Date: April 23, 2018
Spokane, Washington

13
 14 Defendant CXO Media, Inc. ("CXO") files this Motion to Modify In Part Order on
 15 Motion to Compel Based on Plaintiffs' Counsel's Withdrawal of Certain Requests at
 16 Hearing as follows:

17 Plaintiffs' counsel withdrew several of the discovery requests at the hearing on
 18 Plaintiffs' Motion to Compel, yet this Court's Order on the Motion to Compel (ECF No.
 19 98) granted all of the requests. Plaintiffs' counsel disclaimed Request No. 3 (which did
 20 not have to do with the United States), as well as the portions of Request No. 5 and
 21 Interrogatory No. 3 that dealt with the entire United States. *See* Ex. 1, Mar. 15, 2018 Tr.
 22 at 15:5-9 ("MR. NETA: Of course. Request for Production No. 3 is 'Produce all
 23 documents related to CXO Media's relationship with IDG, Inc.' **We'll concede** – THE
 24 COURT: Okay. MR. NETA: **--we don't need that one for now.** THE COURT: All
 right.") (emphasis added); *id.* at 15:21-16:10 ("MR. NETA: And then Request For
 Production No. 5. . . . Mr. NETA: '...whether print or online.' We could – **we could**

CXO MEDIA, INC.'S, MOTION TO MODIFY IN PART
 ORDER ON MOTION TO COMPEL BASED ON
 PLAINTIFFS' COUNSEL'S WITHDRAWAL OF
 CERTAIN DISCOVERY REQUESTS AT HEARING
 PAGE 2

Winston & Cashatt
 A PROFESSIONAL SERVICE CORPORATION
 1900 Bank of America Financial Center
 601 West Riverside
 Spokane, Washington 99201
 (509) 838-6131

1 tailor that to remove the language ‘in the United States generally’. THE COURT: All
 2 right. MR. NETA: If – if Your Honor – THE COURT: I really – MR. NETA: -- is trying
 3 to split the baby. THE COURT: All right.”) (emphasis added); *id.* at 16:16-23 (“MR.
 4 NETA: One thing we didn’t talk about, Your Honor, is Interrogatory No. 3. And based on
 5 what you’ve said, in an effort to try to be conciliatory – **it has six parts, and I think if**
 6 **we just focus on the ones that deal with consumers in the state of Washington, that**
 7 **would be sufficient for our purposes.** THE COURT: Okay. All right. That’s very
 8 specific, and I appreciate that.”) (emphasis added). CXO attaches the portion of the
 9 transcript where this occurred.

10 CXO believes that the Court may have inadvertently included these requests in its
 11 Order on the Motion to Compel. CXO requests that the Court modify the Order so that it
 12 is consistent with what Plaintiffs’ counsel actually conceded and requested at the hearing.
 13 That is, CXO requests that the Court modify its Order to remove Request No. 3, the
 14 portion of Request No. 5 regarding the United States, and subparts (a) and (d) from
 15 Interrogatory No. 3 regarding United States.

16 CXO’s counsel has attempted to confer with Plaintiffs’ counsel regarding this
 17 Motion to Modify in Part and Plaintiffs’ counsel is opposed to this Motion to Modify in
 18 Part.

19
 20
 21
 22
 23
 24 CXO MEDIA, INC.’S, MOTION TO MODIFY IN PART
 ORDER ON MOTION TO COMPEL BASED ON
 PLAINTIFFS’ COUNSEL’S WITHDRAWAL OF
 CERTAIN DISCOVERY REQUESTS AT HEARING
 PAGE 3

Winston & Cashatt
 A PROFESSIONAL SERVICE CORPORATION
 1900 Bank of America Financial Center
 601 West Riverside
 Spokane, Washington 99201
 (509) 838-6131

Conclusion and Prayer

For the foregoing reasons, CXO respectfully requests that the Court sign the attached Order modifying its prior Order to reflect what Plaintiffs' counsel conceded and requested at the hearing.

Respectfully submitted this 23rd day of March, 2018.

s/Kevin J. Curtis, WSBA No. 12085
WINSTON & CASHATT, LAWYERS
601 W. Riverside, Ste. 1900
Spokane, WA 99201
(509) 838-6131
Facsimile: (509) 838-1416
E-mail Address: kjc@winstoncashatt.com

Charles L. Babcock IV (*admitted pro hac vice*)
cbabcock@jw.com
Texas Bar No. 01479500
William J. Stowe (*admitted pro hac vice*)
wstowe@jw.com
Texas Bar No. 24075124
JACKSON WALKER L.L.P.
1401 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 752-4360 (telephone)
(713) 308-4116 (facsimile)

Attorneys for Defendants International Data Group, Inc., CXO Media, Inc. and Steve Ragan

CXO MEDIA, INC.'S, MOTION TO MODIFY IN PART
ORDER ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S WITHDRAWAL OF
CERTAIN DISCOVERY REQUESTS AT HEARING
PAGE 4

Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 838-6131

1 I hereby certify that on March 23, 2018, I electronically filed the foregoing with
2 the Clerk of the Court using the CM/ECF System which will send notification of such
3 filing to the following:
4

5 Jason E. Bernstein - jake@newmanlaw.com
6 Leeor Neta (*admitted pro hac vice*) - leeor@newmanlaw.com

7 Attorneys for Plaintiffs

8 Christopher B. Durbin - cdurbin@cooley.com
9 Matthew D. Brown (*admitted pro hac vice*) - brownmd@cooley.com
Amy M. Smith (*admitted pro hac vice*) - amsmith@cooley.com

10 Attorneys for Defendant Kromtech Alliance Corporation

11 Edward C. Chung - Echung@cmmlawfirm.com
12 Attorney for Defendant Chris Vickery

13 s/Kevin J. Curtis, WSBA No. 12085
14 WINSTON & CASHATT, LAWYERS
15 Attorneys for Defendants International Data
16 Group, Inc., CXO Media, Inc. and Steve Ragan
17 601 W. Riverside, Ste. 1900
18 Spokane, WA 99201
19 (509) 838-6131
20 Facsimile: (509) 838-1416
21 E-mail Address: kjc@winstoncashatt.com

22
23
24 CXO MEDIA, INC.'S, MOTION TO MODIFY IN PART
ORDER ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S WITHDRAWAL OF
CERTAIN DISCOVERY REQUESTS AT HEARING
PAGE 5

Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 838-6131